

Case 1:16-cv-0168-JCH-KK Document 1 Filed 03/08/16 Page 1 of 13  
IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

16 W 168 JCH-KK

STATE VS M WIGGINS

NO: A-0001-CA-2015-3444

**FILED**

Motion For Relief:

UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

U.S.C.A. § 2254

MAR 08 2016 med

**MATTHEW J. DYKMAN**  
**CLERK**

- #1. Comes MR. Wiggins filed a motion to the supreme court to obtain transcripts of motions filed on FEB 25 2015.
- #2. The Request was made under *Sistunk v. United States*, 992 F.2d 858, 259 (10th Cir. 1993); The reason for their Request was do in fact all originals were sent to the court of Appeals and no copies were made see; EXHIBIT (1).
- #3. In case No; 34,441 Defendant believes it is proven he is in custody under a illegal conviction that took place at trial.
- #4. EXHIBIT (2) shows the trial courts dismissal of Defendants Habeas corpus and EXHIBIT (3) shows the court of appeals filed a order of transfer EXHIBIT (4) shows the supreme court accepting that transfer EXHIBIT (5) shows the supreme courts denied Defendants motions.

#5. Defendant Believes The Supreme court UPHold a illegal conviction and calls on The united states district court to Review this case By Reviewing all documents sumitted in this case to the court of Appeals and The Supreme court.

MATTHEW WIGGINS <sup>STB</sup> 51300

*matthew wiggins*

COURT OF APPEALS OF THE  
STATE OF NEW MEXICO

TIME: 10:56:45 AM

DATE: Sep 10, 2015  
PAGE: 1

A-0001-CA-2015-34441  
STATE VS M WIGGINS

FILING DATE: 02-12-2015  
EVENT CATEGORY:

CASE TYPE: CMS

STATUS: CL CLOSED  
OTHER CIVIL CASES

DATE	PARTY	EVENT	RECEIPT #	AMOUNT
02-12-2015	-	NTC: NOTICE OF APPEAL (NON-OPN) PROOF OF SERVICE 06/17/12. GK		
02-12-2015	-	OPN: DOCKETING STATEMENT GK		
02-12-2015	-	MIS: DOCUMENT CASE INFO SHEET. GK		
02-25-2015	-	CLS: TRANSFER ORDER TO NMSC IT IS THEREFORE ORDERED THAT THIS CASE IS HEREBY TRANSFERRED TO NMSC. SMG		

When a case is transferred to Supreme Court. The whole file goes to Supreme Court. Court of Appeals does not keep any paperwork or a file.

DISTRICT COURT  
SAN JUAN COUNTY NM  
FILED

2012 JUN 13 PM 4:00

ELEVENTH JUDICIAL DISTRICT COURT  
STATE OF NEW MEXICO  
COUNTY OF SAN JUAN

MATTHEW LOUIS WIGGINS,  
Petitioner/Defendant,

v.

No. D-1116-CR-200800095

JAMES LOPEZ,  
Warden of the Lea County Correctional Facility,  
Respondent.

**SUMMARY DISMISSAL OF PETITION**  
**FOR WRIT OF HABEAS CORPUS**

THIS MATTER came before the Court on a Petition for Writ of Habeas Corpus filed herein by the Petitioner/Defendant.

THE COURT, after examining the petition together with all attachments, CONCLUDES that it plainly appears from the face of the petition, the annexed exhibits, and the prior proceedings in the case that the Petitioner is not entitled to relief as a matter of law for the following reasons:

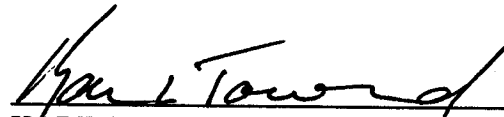
1. Counsel provided to Petitioner the skill of a reasonably competent attorney. In addition, Petitioner's allegations of ineffective assistance of counsel fail to show he was prejudiced. Although Mr. Wiggins maintains his innocence, the evidence against him is substantial.
2. In addition, Mr. Wiggins asserts that trial counsel had a conflict of interest in representing him based on comments counsel made regarding a different judge -

*EXHIBIT (2)*

not the trial court judge. The Court fails to find that there is a potential or actual conflict of interest in this matter based on those comments.

3. The decision for Defendant not to testify was made by the Defendant and counsel at trial. Defendant cannot later assert that right.
4. The other issues raised by the Petitioner were resolved against him both at trial and by the Court of Appeals. There is nothing new or additional in Mr. Wiggins' Petition that would afford him any different decision.
5. No fundamental error is found.

IT IS THEREFORE ORDERED that the Petition for Writ of Habeas Corpus is hereby summarily dismissed.

  
KAREN L. TOWNSEND  
District Judge

ccs: Petitioner  
Respondent  
D.A.

EXHIBIT (3)

1           **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

2           **STATE OF NEW MEXICO,**

COURT OF APPEALS OF NEW MEXICO  
FILED

3                   **Plaintiff-Respondent,**

FEB 25 2015

4           **v.**

No. 34,441     *Handwritten Signature*  
San Juan County  
D-1116-CR-2008-95

6           **MATTHEW WIGGINS,**

8                   **Defendant-Petitioner.**  
9  
10           \_\_\_\_\_

11                   **ORDER OF TRANSFER TO SUPREME COURT**

12           This matter is before this Court on documents filed in this Court by Defendant-  
13   Petitioner, Matthew Wiggins, and is based on the following:

- 14           (1)   On June 6, 2012, Petitioner's petition for writ of habeas corpus was  
15               denied by the district court.
- 16           (2)   On November 5, 2012, the New Mexico Supreme Court issued an order  
17               denying Defendant-Petitioner's Petition for Writ of Certiorari pursuant  
18               to Rule 12-501 NMRA.
- 19           (3)   On November 26, 2014, this Court received the following documents  
20               from Defendant-Petitioner: 1) a handwritten page titled "Proof of  
21               Service," 2) an untitled, handwritten packet of pages asserting custody  
22               in violation of the U.S. Constitution, 3) two copies of a packet of pages

EXHIBIT (3)

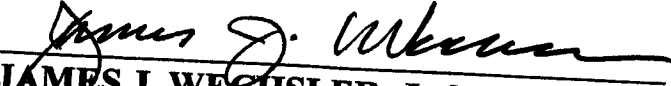
1 consisting of a district court pleading and handwritten pages presenting  
2 issues for review.

3 (4) On February 12, 2015, this Court received the following documents  
4 from Defendant-Petitioner: 1) a notice of appeal, 2) a case information  
5 sheet, 3) an informal docketing statement stating that the appeal is from  
6 the summary dismissal of a petition for writ of habeas corpus, and 4) an  
7 informal memorandum in opposition to summary disposition. A case  
8 file was opened.

9 (5) Under Rules 5-802 and 12-501 NMRA, the New Mexico Supreme Court  
10 has jurisdiction over this matter.

11 After consideration, **IT IS THEREFORE ORDERED THAT** this case is

12 **HEREBY TRANSFERRED** to the New Mexico Supreme Court.

13  
14   
JAMES J. WECHSLER, Judge

15  
16  
17   
TIMOTHY L. GARCIA, Judge

*EXHIBIT (4)*

I CERTIFY AND ATTEST:  
A true copy was served on all parties  
or their counsel of record on date filed.

*Ray D. Hays*

Clerk of the Supreme Court  
of the State of New Mexico

1                   **IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

2   **April 20, 2015**

3                   **NO. 35,142**

4                   **MATTHEW LOUIS WIGGINS,**

5   Petitioner,

6   **v.**

7                   **STATE OF NEW MEXICO,**

8   Respondent.

9   **ORDER**

10                   WHEREAS, this matter came on for consideration upon a transfer order  
11                   from the New Mexico Court of Appeals treating this matter as proceeding under  
12                   Rule 12-501 NMRA seeking a writ of certiorari to review the denial of a petition  
13                   for writ of habeas corpus, and the Court having considered the foregoing and  
14                   being sufficiently advised, Chief Justice Barbara J. Vigil, Justice Petra Jimenez  
15                   Maes, Justice Richard C. Bosson, Justice Edward L. Chávez, and Justice Charles  
16                   W. Daniels concurring;

17                   NOW, THEREFORE, IT IS ORDERED that the transfer is ACCEPTED  
18                   as a Rule 12-501 NMRA proceeding; and  
19



EXHIBIT (C)

I CERTIFY AND ATTEST:  
A true copy was served on all parties  
or their counsel of record on date filed.

*[Signature]*  
Clerk of the Supreme Court  
of the State of New Mexico

1 IT IS FURTHER ORDERED that the informal docketing statement filed  
2 in the Court of Appeals on February 12, 2015, will be treated as a petition for a  
3 writ of certiorari under Rule 12-501 and the other documents filed in the Court  
4 of Appeals will be treated as attachments to the petition; and

5 IT IS FURTHER ORDERED that this matter shall be submitted to the  
6 Court for review and a ruling.

7 IT IS SO ORDERED.

8 WITNESS, Honorable Barbara J. Vigil, Chief Justice  
9 of the Supreme Court of the State of New Mexico, and  
10 the seal of said Court this 20th day of April, 2015.

11 (SEAL)

12 *[Signature]*  
13 Joey D. Moya, Chief Clerk of the Supreme Court  
of the State of New Mexico

EXHIBIT (5)

I CERTIFY AND ATTEST:  
A true copy was served on all parties  
or their counsel of record on date filed.

*Madelaine M. Garcia*  
Clerk of the Supreme Court  
of the State of New Mexico

1 **IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

2 **August 10, 2015**

3  
4 **NO. S-1-SC-35142**

5 **MATTHEW LOUIS WIGGINS,**

6  
7  
8 **Petitioner,**

9  
10 **v.**

11  
12 **STATE OF NEW MEXICO,**

13  
14 **Respondent.**

15 **ORDER**

16 **WHEREAS,** this matter came on for consideration by the Court upon petition  
17 for writ of certiorari filed under Rule 12-501 NMRA, and the Court having considered  
18 the petition and being sufficiently advised, Chief Justice Barbara J. Vigil, Justice  
19 Petra Jimenez Maes, Justice Richard C. Bosson, Justice Edward L. Chávez, and  
20 Justice Charles W. Daniels, concurring;

21 **NOW, THEREFORE, IT IS ORDERED** that the petition for writ of certiorari is  
22 **DENIED.**

23 **IT IS SO ORDERED.**



WITNESS, the Honorable Barbara J. Vigil, Chief  
Justice of the Supreme Court of the State of New  
Mexico, and the seal of said Court this 10th day of  
August, 2015.

Joey D. Moya, Clerk of Court  
Supreme Court of New Mexico

By *Madelaine Garcia*  
Clerk of the Supreme Court

FORM 9-704. ORDER OF APPOINTMENT FOR HABEAS..., NM R CR Form 9-704

West's New Mexico Statutes Annotated  
State Court Rules  
9. Criminal Forms  
Article 7. Special Proceedings

NMRA, Form 9-704

FORM 9-704. ORDER OF APPOINTMENT FOR HABEAS  
CORPUS PROCEEDINGS UNDER RULE 5-802 NMRA

Currentness

[For use with District Court Criminal Rule 5-802 NMRA]

STATE OF NEW MEXICO

COUNTY OF Lee

13th JUDICIAL DISTRICT COURT

MATTHEW L. WIGGINS

No. A-0001-CA-2015-3444

Petitioner,

v.

ALISHA LOCERO

Respondent.

ORDER OF APPOINTMENT FOR HABEAS CORPUS PROCEEDINGS UNDER RULE 5-802 NMRA

This matter having come before the court, and the court being fully advised of the circumstances;

THE COURT FINDS THAT:

[W] the petitioner is incarcerated; or

[W] the petitioner is not incarcerated, and is indigent and unable to obtain counsel; and

[W] This is a proceeding which a reasonable person would bring at that person's own expense.<sup>1</sup>

IT IS THEREFORE ORDERED THAT:

[W] the Public Defender Department is hereby appointed to represent the Petitioner in the above-entitled cause without payment of the application fee.

FORM 9-704. ORDER OF APPOINTMENT FOR HABEAS..., NM R CR Form 9-704

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[W] the Public Defender Department, shall appoint an attorney on contract with the department represent the petitioner based on the conflict memorandum reviewed by the court or as disclosed at a status conference with the court.

[W] petitioner's counsel shall file an amended petition or a notice of non-intent to file an amended petition within ninety (90) days of the date of the filing of this order.

.....  
(  
District Judge  
)

**USE NOTE**

If the Public Defender Department is appointed, the clerk of the district court shall mail a copy of this order and a copy of the pro se petition to the Post-Conviction/Habeas Division, Office of the Public Defender, 505 Marquette NW, Ste. 120, Albuquerque, NM 87102.

**Credits**

[Adopted effective Dec. 31, 2014.]

**Footnotes**

- 1 Under the Indigent Defense Act, a person has the limited right to appointed counsel representation in post-conviction matters "unless the court in which the proceeding is brought determines that it is not a proceeding that a reasonable person with adequate means would be willing to bring at his own expense" NMSA 1978, § 31-16-3(B)(3) (1968). Therefore, the Public Defender may not be able to represent a petition in all cases.

NMRA, Form 9-704, NM R CR Form 9-704

State court rules are current with amendments received through 3/1/2015. Local federal district and bankruptcy court rules are current with amendments received through December 1, 2013.

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End of Document

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Matthew Wiggins #67300

P.O. Drawer 250

Albany, New Mexico

87020

LEGAL MAIL

LEGAL MAIL

UNITED STATES DISTRICT

DISTRICT OF NEW MEXICO

Office of the Clerk

333 Leamas Bld. NW

Albuquerque, New Mexico

87102

RECEIVED  
At Albuquerque NM

MAR 07 2016

MATTHEW J. DYKMAN  
Clerk

Hasler

03/03/2016

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